

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PHILLIP G. STECK, et al.,

Plaintiffs,

19-cv-5015 (PKC)

-against-

ORDER

THOMAS P. DINAPOLI, et al.,

Defendants.

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CASTEL, U.S.D.J.

This is a First and Fourteenth Amendment challenge to certain “outside income” restrictions placed by the State of New York upon members of the New York State Senate and Assembly.

Two state court decisions have invalidated the restrictions: Delgado, et al. v. State of New York, et al., Index No. 907537/2018 (Sup. Ct. Albany Cty.) and Barclay, et al. v. New York State Committee on Legislative and Executive Compensation, et al., Index No. 901837/2019 (Sup. Ct. Albany Cty.). The appeal of Delgado to the Appellate Division, Third Department, has been withdrawn. The time to appeal Barclay has expired without the filing of a notice of appeal.

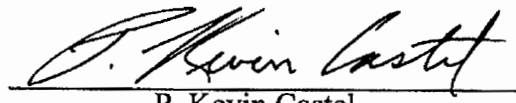
Defendants point out that an “outside income” restriction could be included in the new Executive budget to be proposed by the Governor, which then could be enacted by the Legislature. Defendants urge the Court to stay this action for six months to see if that occurs.

There is no present case or controversy because there is no present prospect that the restrictions challenged in the Complaint can be enforced against any Legislator. If new restrictions

are enacted, then this or another federal district court may have subject matter jurisdiction over any ensuing case or controversy.

The action is dismissed for lack of subject matter jurisdiction. The Clerk shall terminate all motions (Doc 19, 28) and close the case.

SO ORDERED.


P. Kevin Castel
United States District Judge

Dated: New York, New York
January 7, 2020